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APR 14 2009

OFFICE OF PETITIONS

In re Application of :
Hiroko Suzuki et al. :
Application No. 10/602,216 :
Filed: June 24, 2003 :
Attorney Docket No. AD6892 US NA :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008, and supplemented on May 7, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 15, 2006, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

In the declaration filed by Arne Jarnholm (Affiant) filed concurrently with the instant petition (Declaration), it is stated that Examiner's reasons for abandonment are correct (see item 3 in the declaration). The "reasons" stated by the Examiner include confirmation of the abandonment during a telephonic conversation with the Affiant. The affiant does not state the basis for confirming the abandonment in the telephonic conversation with the Examiner. Based on the information provided, it is not clear if any circumstance that changed subsequent to that confirmation of abandonment by the affiant prompted this petition for revival. As noted in MPEP § 711.03, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned (See In re Maldaque, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988)). The record indicates that petitioner, by deliberate intent, allowed this application to become abandoned, and that course of action precludes revival under 37 CFR 1.137.

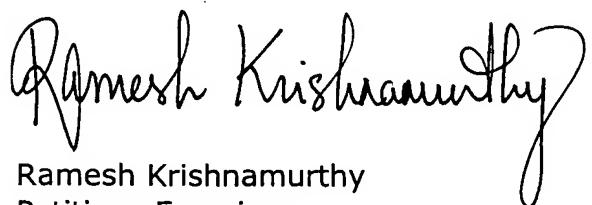
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

A handwritten signature in black ink, appearing to read "Ramesh Krishnamurthy". The signature is fluid and cursive, with a large, stylized 'R' at the beginning.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

MAY. 7. 2008 2:12PM

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NO. 0752 P. 1

MAY 07 2008

PTO/SB/97 (01-08)

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on May 7, 2008

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Ann F. Griffith

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10/602216

AD6892USNA

Affidavit of Arne R. Jamholm

Notice of Abandonment

Official Filing Receipt

Transmittal Form

Petition to Revive

Page 1 of 12

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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NO. 0752 P. 2

MAY 07 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

HIROKO SUZUKI ET. AL.

CASE NO.: AD6892US

APPLICATION NO.: 10/602,216

GROUP ART UNIT: 1771

FILED: MARCH 31, 2008

EXAMINER: TORRES VELAZQUEZ,
NORCA LIZ

FOR: MOISTURE-PERMEABLE, WATERPROOF AND WINDPROOF LAMINATED
SHEET, INTERLINING USING THE SAME, AND GARMENT CONTAINING THE
INTERLINING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In connection with the above-captioned application for patent and in support of the
PETITION TO REVIVE, filed on March 31, 2008, please find the AFFIDAVIT OF ARNE R.
JARNHOLM attached hereto.

MAY. 7. 2008 2:13PM

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MAY 07 2008

PTO/SB/21 (01-08)

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number

Filing Date

First Named Inventor

Art Unit

Examiner Name

Attorney Docket Number

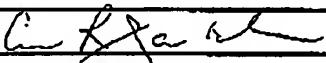
Hiroko Suzuki, et al.

AD6892USCNT

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	<input type="checkbox"/>
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/>
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/>
<input type="checkbox"/> <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.63		
Remarks		
Please charge Petition to Revive to E.I. Dupont de Nemours and Company Deposit Account No. 04-1928		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	E. I. DU PONT DE NEMOURS AND COMPANY		
Signature			
Printed name	ARNE R. JARNHOLM		
Date	3-31-08	Reg. No.	30,398

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Date		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Application No.: 12/080116
Docket No.: AD6892USCNT

Page 2

STATE OF DELAWARE)
) ss
COUNTY OF NEW CASTLE)

10 USPL 2d
1477

**AFFIDAVIT OF ARNE R. JARNHOLM IN SUPPORT OF PETITION TO REVIVE
UNITED STATES PATENT APPLICATION SERIAL NO. 10/602,216
('216 Application")**

I, Arne R. Jarnholm, the undersigned, hereby state on oath as follows:

1. I was attorney of record in the above-captioned patent application.
2. That the above-captioned patent application was deemed to be abandoned for failure to respond to an Office Action mailed 11 May 2007. (See Notice of Abandonment, attached hereto, mailing date unknown).
3. That the examiner's reasons for abandonment in paragraphs 1 and 7 of the Notice Of Abandonment are correct.
4. That on April 30, 2004, E. I. du Pont de Nemours ("DuPont"), DuPont North America, Inc. (f/k/a Invista, Inc.) Invista Technologies S. a. r. l., a Luxembourg private limited company ("Invista"), entered into a Patent and Technical Information Agreement ("PTIA").
5. That the PTIA required DuPont to offer to assign to Invista certain pending patent applications, which included the '216 Application, before DuPont abandoned those certain pending patent applications.
6. That at the time of abandonment of the '216 Application, it was unknown to the undersigned affiant that Invista had an equitable interest therein via the PTIA.
7. That it was never the intention of the undersigned affiant to abandon Invista's right to title and equitable interest in the '216 Application.
8. That the undersigned affiant regrets the error, made unknowingly by the affiant, of failing to notify Invista and offering to assign to Invista title to the '216 Application before abandonment of the same for failure to respond to the Office Action mailed 11 May 2007.

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7/1/03 (C)
In re Maldague

Application No.: 12/080116
Docket No.: AD6892USCNT

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9. Upon information and belief, the undersigned Affiant became aware of Invista's equitable interest in the '216 Application sometime in January of 2008 and notified Invista of the status of the '216 Application.

10. Invista notified the undersigned affiant of its desire for assignment of the '216 Application and it was agreed between counsel for Invista and the undersigned affiant that the undersigned affiant would file this PETITION TO REVIVE the '216 Application and to file a continuation of the '216 application as a Reply to the Office action mailed 11 May 2007.

11. Abandonment of Invista's equitable interest in the '216 Application was a direct result of the undersigned affiant's lack of knowledge of Invista's equitable interest therein and thus the entire delay in filing required reply (in this case a continuation patent application filed on March 31, 2008, which is of even date with this PETITION TO REVIVE, and which has been granted serial number 12/080,116, Filing receipt attached hereto) from the due date until a filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

12. Promptly upon grant of this PETITION TO REVIVE DuPont will assign to Invista title to the '216 Application and the continuation application thereof.

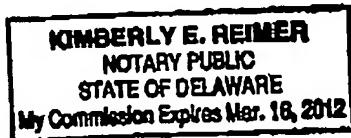
13. DuPont has already assigned to Invista foreign counterparts of the '216 Application (CN, EP (FR, DE, GB, IT, NL), JP, KR and TW) to Invista by Assignment executed April 9, 2008.

FURTHER SAYETH AFFAINT NOT.

Arne R. Jarnholm date 5-07-08
Arne R. Jarnholm

Subscribed and Sworn to before me, Kimberly E. Reimer, a notary public in and for the State of Delaware and the county of New Castle this 7 day of May, 2008.

Seal



MAY. 7. 2008 2:13PM

NO. 0752 P. 5

Application No.: 12/080116
Docket No.: AD6892USCNT

Page 4

Respectfully submitted,



ARNE R. JARNHOLM
ATTORNEY FOR APPLICANTS
Registration No.: 30,396
Telephone: (302) 992-2394
Facsimile: (302) 992-3257

Dated:
Enclosure

MAY. 7. 2008 2:13PM

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NO. 0752 P. 6

MAY 07 2008

Notice of Abandonment	Application No.	Applicant(s)
	10/602,216	SUZUKI ET AL.
	Examiner	Art Unit
	Norca L. Torres-Velazquez	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on 11 May 2007.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.
2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.
3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.
4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. The reason(s) below:

during a telephonic communication with Arne Jarnholm, abandonment of application was confirmed.

/Norca L. Torres-Velazquez/
Primary Examiner, Art Unit 1771

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 20070926

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MAY 07 2008

PTO/SB/84 (10-07)

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)
	AD6892USNA

First named inventor: HIROKO SUZUKI, et al.

Application No.: 10/602216

Art Unit: 1771

Filed: June 24, 2003

Examiner: TORRES

Title: MOISTURE-PERMEABLE, WATERPROOF AND WINDPROOF LAMINATED SHEET, INTERLINING USING THE SAME, AND GARMENT CONTAINING THE INTERLINING

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of continuation application (identify type of reply):

has been filed previously on _____
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____
 has been paid previously on _____
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/64 (10-07)

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U.S. Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE

3. Terminal disclaimer with disclaimer fee

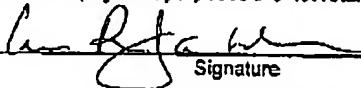
Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

ARNE R. JARNHOLM

Typed or printed name

E. I. DU PONT DE NEMOURS AND COMPANY

Address

Legal Patent Records Center, Barley Mill Plaza 25/1128

Address

4417 Lancaster Pike, Wilmington, DE 19805

Address

3-31-08

Date

30,396

Registration Number, if applicable

(302) 992-2394

Telephone Number

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Continuation application**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

[Page 2 of 2]